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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

UNITED STATES OF AMERICA

6:20-CR-00218-MC

v.

**GOVERNMENT'S SENTENCING
MEMORANDUM**

YUAN XIE

Defendant.

Introduction

In 2017 and 2018, Yuan Xie conspired to smuggle hundreds of live turtles indigenous to the United States for export. All of the turtles were protected by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and a CITES permit was required in order to export the turtles. The government is recommending a five-year term of probation, a fine of \$15,000 designated to the Lacey Act Reward Fund, \$2,233 restitution, and 500 hours of community service.

Factual Background

A. The Offense Conduct

The Presentence Report details the facts underlying this case, and the United States concurs with the offense conduct description. (PSR ¶¶ 17-64). In May of 2017, September of 2017 and January of 2018, Xie posted four separate classified advertisements on an online reptile website requesting large quantities of Florida box turtles, North American wood turtles, spotted turtles and eastern box turtles.

On May 23, 2017, Xie sent \$625 to a reptile dealer in South Carolina in exchange for six eastern box turtles. On the same date, co-defendant Xiao Dong Qin transferred approximately \$1,000 to the Xie. Xie asked the dealer to send the turtles to an address in Ohio and the reptile dealer initially declined stating that a permit would be required to ship the turtles to Ohio. Xie told the dealer that he was visiting a friend in Ohio and intended on taking the turtles back to Eugene, Oregon, which was false.

The reptile dealer shipped the turtles to the Ohio address that Qin provided to Xie. On May 25, 2017, two packages were mailed from Ohio to an address in Hong Kong. The government's investigation revealed that after the turtles were sent to Ohio, Qin sent the following photos to the Xie through WeChat:

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One of the packages was intercepted by a Fish and Wildlife Inspector who found ten live eastern box turtles wrapped in socks as indicated in the photos below. The package was declared as “Box (sample)” with a value of \$14 when shipped. The turtles had an estimated Chinese market value of \$4,000, and the required CITES permit was not completed for the shipment. On June 15, 2017, XIE sent another thirty eastern box turtles from Eugene to the same address in Ohio. The turtles had an estimated Chinese market value of \$21,000, and the required CITES permit was not completed for the shipment. On June 27, 2017, Hong Kong authorities seized a package of five live eastern box turtles sent from the Ohio address.



From June through July 2017, Xie and Qin conspired to smuggle twenty Florida box turtles to New Jersey and Alabama through the mail with a final destination of Hong Kong. The turtles had an estimated Chinese market value of \$22,000.

From September through December of 2017, Xie and Qin conspired to obtain more than 165 turtles that were ultimately flown from Los Angeles to Shanghai on three separate occasions. The government's investigation uncovered payments from Xie to reptile dealers in Kentucky, Alabama, South Carolina and Michigan in excess of \$25,000, with an estimated Chinese market value of \$51,000. The investigation also recovered a November 8, 2017 message from Qin to Xie noting that approximately ten of the Florida box turtles died, and others had swollen feet. Photos taken in Shanghai from November 17 through November 20 displaying eastern box turtles, Florida box turtles and North American wood turtles were found on Qin's phone, including but not limited to the following:



From December 2017 through March of 2018, Xie and Qin conspired to smuggle more than forty turtles and terrapins from the United States. The government's investigation uncovered over \$13,000 in payments from Xie to a reptile dealer in Florida during this period in exchange for eight North American wood turtles, seven spotted turtles, seven yellow-blotched map turtles, nineteen Florida box turtles and three diamondback terrapins. The turtles had an estimated Chinese market value of \$43,000. On March 13, 2018, Qin traveled from Shanghai to Los Angeles. Two days later Xie paid Reptiles Express to ship a package of live turtles from Eugene to an address in California. The turtles arrived on March 16 and on March 18 Qin flew back to Shanghai. Photos taken on March 19 showing dozens of turtles visible in black socks near luggage and cereal boxes, were recovered from Qin's phone:



From March through June of 2018, Xie and Qin conspired to smuggle another seventeen Florida box turtles, thirteen spotted turtles, thirteen diamondback terrapins, two North American wood turtles and a Blanding's turtle from the United States. The turtles had an estimated Chinese market value of \$53,000. Photos from June 2018 taken in Shanghai were recovered from Qin's phone:



At the time of Xie's arrest and interview in November 2018, agents seized an additional 87 live turtles from his residence.

The 769 turtles smuggled over the course of the conspiracy were valued at \$190,052. Fish and Wildlife agents estimate the Asian Market Value of the turtles at approximately \$386,198.

B. The Charge

Xie was charged in a single-count information with conspiracy to smuggle goods from the United States in violation of 18 U.S.C. §§ 371 and 554.

C. The Plea Agreement & Guideline Computations

Xie agreed to plead guilty to the information. The government agrees with the PSR computations. Xie has no criminal history.

Government's Recommended Sentence

The government joins the PSR recommendation of five years' probation, restitution in the amount of \$2,233 and 500 hours of community service. Additionally, the government is recommending a fine of \$15,000 designated to the Lacey Fund.

The government recommends that Xie's community service be related to his specific offense. The U.S. Fish and Wildlife Service has been in contact with a conservation social scientist at the University of Maryland who is interested in interviewing individuals involved in wildlife smuggling. The government supports designating a portion of Xie's community service to participating in academic research related to conservation and the prevention of future wildlife trafficking.

During the course of the investigation and during the pendency of this case, Xie was a student in Eugene, Oregon and then Los Angeles, financially supported by his parents and not required to work. Pursuant to the plea agreement, the government is not seeking prison time, however, the government is recommending a fine within the guideline range consistent with other federal wildlife prosecutions in the district. District Courts in Portland and Eugene have recently imposed fines of \$12,500 in a felony case and \$5,000, \$6,000, and \$25,000 respectively

in misdemeanor cases involving wildlife.¹ As indicated in the PSR, Xie has assets in China and the financial means to pay a fine within the USSG range of \$7,500-\$75,000. (PSR ¶¶ 103, 114) A fine of \$15,000 is reasonable.

As indicated in the attached declarations of Professor Daniel Gaillard (Exhibit 1) and Zoo Herpetologist R. Michael Ogle (Exhibit 2), prepared for co-defendant Qin's sentencing, the illegal trade in turtles exacerbates the decline of wild turtle populations. Noting the relatively low annual reproductive output and length of time to maturity among turtle populations, Gaillard suggests that the loss of only a handful of adult female turtles can cause that population to decline. Ogle notes that although state and federal agencies have diminished the legal turtle collecting seasons, poachers are continuing to remove turtles and cause local populations to disappear.

Gaillard characterizes the illegal turtle trade as a low-risk, high-reward enterprise in balancing the large sums of money available to smugglers measured against the low probability of being caught. Gaillard acknowledges the relatively tight-knit community of smugglers and suggests that more severe punishment for those found guilty of smuggling turtles may dissuade others from participating in similar schemes.

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¹ *U.S. v. Yeng*, 3:16-cr-00090-JO (conspiracy to smuggle wildlife); *U.S. v. Yu*, 3:21-cr-00095-BR (selling smuggled wildlife); *U.S. v. Campbell*, 6:19-cr-00400-AA (illegal poaching); *U.S. v. Holstrom*, 3:16-cr-00243-BR (selling endangered wildlife).

Conclusion

Based on the foregoing and in consideration of the § 3553(a) factors, the government recommends that this Court impose a sentence of five years' probation, \$2,233 in restitution, 500 hours of community service and a fine of \$15,000 designated to the Lacey Act Reward Fund.

Dated: August 4, 2021

Respectfully submitted,

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s/Pamela Paaso
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